

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

MELINDA WOOLVERTON	§	
v.	§	CIVIL ACTION NO. 6:12cv68
SUE STARNES, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Relator Melinda Woolverton, proceeding *pro se*, filed this application for the writ of mandamus seeking to overturn an eviction decision entered by a Texas justice of the peace. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Woolverton originally stated that she was seeking a writ of mandamus to overturn an eviction decision rendered by Justice of the Peace Sue Starnes. In an amended complaint, Woolverton stated that she was seeking relief under the Civil Rights Act, 42 U.S.C. §1983, and asked that Judge Starnes be dropped from the case as a defendant. Instead, Woolverton asked to add as defendants Dale and Nina Woolverton. She explained that she entered into a contract of sale with Dale and Nina Woolverton for some property in Chandler, Texas, but that these persons then forged a lease with her name on it and had her evicted from the home. She complained that Dale and Nina Woolverton violated various Texas criminal statutes as well as her constitutional rights.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed as frivolous. The Magistrate Judge observed that Woolverton had failed to show that Dale or Nina Woolverton were state actors, as required for liability under 42 U.S.C.

§1983, nor was there any showing of diversity of citizenship or any other basis for federal jurisdiction.

A copy of this Report was sent to Woolverton's last known address, return receipt requested, but no objections have been received; accordingly, Woolverton is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 12) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice for want of subject matter jurisdiction and failure to state a claim upon which relief may be granted, but without prejudice as to any claims which Woolverton may raise in the courts of the State of Texas. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

**It is SO ORDERED.**

**SIGNED this 13th day of August, 2012.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE